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EXAMINER

WOOLWINE, SAMUEL C

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Continuation of Substance of Interview including description of the general nature of what was discussed: Parties discussed MPEP 715.02(I) regarding the swearing behind one of a combination of references, specifically: "Where a claim has been rejected under 35 U.S.C. 103 based on Reference A in view of Reference B, with the effective date of secondary Reference B being earlier than that of Reference A, the applicant can rely on the teachings of Reference B to show that the differences between what is shown in his or her 37 CFR 1.131 affidavit or declaration and the claimed invention would have been obvious to one of ordinary skill in the art prior to the date of Reference A. However, the 37 CFR 1.131 affidavit or declaration must still establish possession of the claimed invention, not just what Reference A shows, if Reference A does not teach the basic inventive concept."

In this case, it appears to the Examiner that the "basic inventive concept" is performing PCR in an emulsion with beads, primers, other PCR reagents and sample nucleic acid to form a population of beads, each bead having multiple copies of a single species of nucleic acid sequence immobilized thereon (which may be the same as or different from the nucleic acid species immobilized on other beads), and analyzing the sequence of the immobilized nucleic acids. In this respect the affidavit submitted 03/23/3009 shows this concept. Therefore, in accordance with MPEP 715.02(I), the Examiner vacates the previous Office action (mailed 09/15/2010) and withdraws the section 103 rejections made therein. A new Office action will be issued in response to Applicant's last reply filed 09/08/2010..